

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Bryan Nese (Reg#66,023) on 06/01/2010.

IN THE CLAIMS

24. **(Currently Amended)** The device of claim 4 23, wherein the therapeutic is a pharmaceutically active compound.

27. **(Currently Amended)** The method of claim ~~49~~ 26, wherein the therapeutic is a pharmaceutically active compound.

Allowable Subject Matter

Claims 1, 19-20, 22-35 and 40-46 are allowed over the prior art of record as amended in the reply filed 05/12/2010 and in this office action.

The following is an examiner's statement of reasons for allowance: The claims in this application have been allowed because the prior art of record fails to disclose either singly or in combination the claimed device and method for direct delivery of a therapeutic to a target site that utilizes the non-Newtonian characteristics of shear thickening fluids to allow easy passage of a therapeutic through a delivery lumen yet facilitate retention of the therapeutic in the target site. The device and method includes increasing the shear rate or shear stress of

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a non-Newtonian fluid having therapeutic properties thereby increasing or decreasing the viscosity of the non-Newtonian fluid.

The closest prior art of record is Zarate (USPN5,662,619) and Nilsson et al. (USPN6,132,405), however these references do not disclose the device as claimed or described above.

Regarding claims 1 and 19, the closest prior art of record fails to teach among all the limitations or render obvious the specifics of the open flow channel, constricted flow orifice and viscosity adjuster's .

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Koharski whose telephone number is 571-272-7230. The examiner can normally be reached on 7:30am to 4:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Date: 06/01/2010

/Christopher D Koharski/
Examiner, Art Unit 3763

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763